

**UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION IX  
75 HAWTHORNE STREET  
SAN FRANCISCO, CA 94105**

In the Matter of:	)	ORDER
	)	SECTION 13(a)
	)	
EcoShield, LLC	)	FEDERAL INSECTICIDE, FUNGICIDE
	)	AND RODENTICIDE ACT
	)	
Respondent.	)	Docket No. FIFRA- 09-2020-4502
_____	)	

**I. AUTHORITIES**

1. The United States Environmental Protection Agency (“EPA”) is authorized under Section 13(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (“FIFRA”), 7 U.S.C. § 136k(a), to issue an order prohibiting the sale, use, or removal of any pesticide or device by any person who owns, controls, or has custody of such pesticide or device whenever there is a reason to believe that, *inter alia*, the pesticide or device is in violation of any provision of FIFRA, or the pesticide or device has been or is intended to be distributed or sold in violation of any provision of FIFRA.
2. This authority has been delegated from the EPA Administrator to the Director, Enforcement & Compliance Assurance Division, EPA, Region IX.
3. Section 2(s) of FIFRA, 7 U.S.C. § 136(s), defines a “person” as “any individual, partnership, association, corporation, or any organized group of persons whether incorporated or not.”
4. Section 2(t) of FIFRA, 7 U.S.C. § 136(t), defines “pest,” in part, as any “form of terrestrial or aquatic plant or animal life or virus, bacteria, or other micro-organism (except viruses, bacteria, or other micro-organisms on or in living man or other living animals) which the Administrator declares to be a pest under section 25(c)(1).” Pursuant to the authority in section 25(c)(1) of FIFRA, 7 U.S.C. § 136w(c)(1), the Administrator declared that a pest is “[a]ny fungus, bacterium, virus, prion, or other microorganism, except for those on or in living man or other living animals and those on or in processed food or processed animal feed, beverages, drugs . . . and cosmetics. . . .” 40 C.F.R. § 152.5.
5. Section 2(u) of FIFRA, 7 U.S.C. § 136(u), defines a “pesticide” in part, as any “substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any

pest.” See also 40 C.F.R. § 152.15. 40 C.F.R. § 152.15 states in pertinent part that “a pesticide is any substance (or mixture of substances) intended for a pesticidal purpose...” and that a substance is considered to be intended for a pesticidal purpose, and thus to be a pesticide requiring registration, if: (a) The person who distributes or sells the substance claims, states, or implies (by labeling or otherwise) that: (1) the substance (either by itself or in combination with any other substance) can or should be used as a pesticide; or (2) the substance consists of or contains an active ingredient and that it can be used to manufacture a pesticide; or (b) The substance consists of or contains one or more active ingredients and has no significant commercially valuable use as distributed or sold other than (1) use for pesticidal purpose (by itself or in combination with any other substance), (2) use for manufacture of a pesticide; or (c) The person who distributes or sells the substance has actual or constructive knowledge that the substance will be used, or is intended to be used, for a pesticidal purpose.

6. Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), defines “distribute or sell” as “to distribute, sell, offer for sale, hold for distribution, hold for sale, hold for shipment, ship, deliver for shipment, release for shipment, or receive and (having so received) deliver or offer to deliver.”
7. Section 2(p) of FIFRA, 7 U.S.C. § 136(p), defines “label” as “the written, printed, or graphic matter on, or attached to, the pesticide or device or any of its containers or wrappers” and “labeling” in part, as “all labels and all other written, printed, or graphic matter –
  - (A) accompanying the pesticide or device at any time; or
  - (B) to which reference is made on the label or in literature accompanying the pesticide...” and defines “label” as “the written, printed, or graphic matter on, or attached to, the pesticide or device or any of its containers or wrappers.”
8. Section 2(q)(1) of FIFRA, 7 U.S.C. § 136(q), states that “a pesticide is misbranded if -
  - (A) its labeling bears any statement, design, or graphic representation relative thereto or to its ingredients which is false or misleading in any particular”
9. EPA regulations at 40 C.F.R. §156.10(a)(5) provide examples of false or misleading statements that can cause a pesticide to be misbranded. They include but are not limited to: (ii) a false or misleading statement concerning the effectiveness of the product as a pesticide ... (iv) a false or misleading comparison with other pesticides... (ix) claims as to the safety of the pesticide or its ingredients, including statements such as “safe,” “nonpoisonous,” “noninjurious,” “harmless,” or “nontoxic to humans and pets” with or without such a qualifying phrase as “when used as directed.”
10. Section 3(a) of FIFRA, 7 U.S.C. § 136a, provides that “no person in any State may distribute or sell to any person any pesticide that is not registered under this Act.” See also 40 C.F.R. 152.15, which also provides that no person may distribute or sell any pesticide that is not registered under the Act, with certain exceptions that are not

applicable here.

11. Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), states, “it shall be unlawful for any person in any State to distribute or sell to any person . . . any pesticide that is not registered under section 3 or whose registration has been suspended or cancelled...”
12. Section 12(a)(1)(E) of FIFRA, 7 U.S.C. § 136j(a)(1)(E), states, “it shall be unlawful for any person in any State to distribute or sell to any person . . . any pesticide which is adulterated or misbranded.”
13. Section 12(a)(2)(I) of FIFRA, 7 U.S.C. § 136j(a)(2)(1), states that it shall be unlawful for any person to violate any order issued under section 13 of FIFRA.

## **II. BACKGROUND**

14. This Order refers to EcoShield, LLC as “ECOSHIELD” or the “Respondent.”
15. ECOSHIELD is a limited liability company organized under the laws of the State of Wyoming with a place of business located at 3620 Ethan Allan Avenue in San Diego, California. ECOSHIELD is therefore a “person” as defined in section 2(s) of FIFRA, 7 U.S.C. § 136(s).
16. ECOSHIELD is the importer of record of the product, “ECO AirDoctor Portable” (also known as “ECO AirDoctor” or “Air Doctor Portable”), which is manufactured in Japan by KiYou Jochugiku Co., Ltd.
17. “ECO AirDoctor Portable” is a self-described “personal air sanitizer” in the form of a single, clip-on, 4.72”x 5.43” badge with a pouch that contains 0.49 ounces of sodium crystals with the active ingredient, Sodium chlorite ( $\text{NaClO}_2$ ), and releases the active ingredient Chlorine dioxide ( $\text{ClO}_2$ ) gas into the air when the pouch is opened.
18. According to the EPA Substance Registry Services database, Sodium chlorite ( $\text{NaClO}_2$ ) (CAS#7758-19-2) and Chlorine dioxide ( $\text{ClO}_2$ )(CAS#10049-04-4) are each pesticidal substances.
19. The “ECO AirDoctor Portable” label/labeling shows images of the badge/pouch clipped on the clothing of a traveler, student and health professional with directions to “hang from your shirt, pocket, blouse, backpack, handbag, etc.”
20. The “Hazard Statements” section of the manufacturer’s Material Safety Data Sheet (“MSDS”) for the product assigns the signal word “Danger” to “Air Doctor Portable” because it can cause “severe chemical skin burns,” “eye damage,” and “may be harmful to [the] respiratory system [and] kidney.”

21. The “Precautionary Statement” section of the MSDS states “use only in a well-ventilated area;” “[d]o not breathe a large amount of chlorine dioxide gas liberated from this product;” and “[i]f inhale a large amount of chlorine dioxide gas, can cause respiratory tract irritation, coughing, wheezing, and burns of the mucous membranes and may lead to pulmonary edema and bronchitis.”

### **III. BASIS FOR ORDER**

22. On or about April 21, 2020, EPA Region 9 received a referral from EPA Region 10 regarding potential FIFRA violations associated with ECOSHIELD’s distribution or sale of “ECO AirDoctor Portable.”
23. On April 27, 2020, the Northwest Region of the Federal Trade Commission (“FTC”) issued a Warning Letter to ECOSHIELD in which the FTC found that ECOSHIELD was unlawfully (falsely) advertising that ECO AirDoctor prevents Coronavirus Disease 2019 (COVID-19) on the ECOSHIELD website, social media websites, facebook.com and instagram.com, and in-store advertising at Bartell Drugs Store in Seattle, Washington.
24. Based on Coronavirus shelter-in-place restrictions, on or about May 19, 2020, EPA Region 9 issued a Request of Information to ECOSHIELD under FIFRA inspection authority at section 8(b) of FIFRA, 7 U.S.C. §136f(b), and section 9(a) of FIFRA, 7 U.S.C. §136g(a) as a means of conducting an inspection “for cause” of ECOSHIELD based on ECOSHIELD’s suspected distribution or sale of a pesticide, ECO AirDoctor Portable, that is not registered with EPA under section 3 of FIFRA, in violation of section 12(a)(1)(A) of FIFRA, 7 U.S.C. §136j(a)(1)(A).
25. On or about May 27, 2020, EPA Region 9 received ECOSHIELD’s response to the Request for Information and follow-up responses on June 1, 3, and 15, 2020.
26. Review of the information collected through the Request for Information/inspection resulted in the following findings, as referenced in Paragraphs 27 through 32, below.
27. The “ECO AirDoctor Portable” label/labeling contains the following claims:
- a. “Each patented pouch contains crystals which are designed to slowly release the safe and effective germ-killing agent Chlorine dioxide over the course of one month;”
  - b. “Creates a safe breathing space;”
  - c. “[I]n case of overdose, get medical help or contact poison control center right away.”
28. ECOSHIELD’s website for ECO AirDoctor Portable at [www.ecoairdoctor.com](http://www.ecoairdoctor.com) and

ECOSHIELD's Facebook page contain the following claims:

- a. "AirDoctor considered one of the most powerful antimicrobial agents, chlorine dioxide creates an atmospheric shield of protection against germs, viruses, bacteria, pollen and odors;"
  - b. "More effective than a face mask;"
  - c. "Safe to use- the concentration of chlorine dioxide emitted by ECO AirDoctor Portable is considered safe and approved by the World Health Organization;"
  - d. "The first of its kind personal air sanitizer;"
  - e. "Strong Antibacterial Effect...Chlorine dioxide has two and half times more oxidizing power than general chlorine agents used for disinfection."
  - f. "This patented clip-on pouch is designed to slowly release the powerful antimicrobial agent chlorine dioxide, which can help provide protection against airborne pathogens;"
  - g. "Works for 30 days in a 3-foot radius;"
  - h. "Sold in pharmacies across the United States;"
  - i. "Endorsed by medical doctors and pharmacist;"
  - j. "Designed for travel, public interaction, and everyday life;" and
  - k. "Coronavirus Protection? (next to an image of the coronavirus) Due to the recent outbreak of COVID-19, no testing has been done on the virus. ECO AirDoctor Portable's active ingredient releases chlorine dioxide, which is known to protect and disinfect against diseases such as influenza, common colds, bronchitis, tuberculosis, and respiratory infections."
29. Based on the active ingredient it contains, the substance that it emits, and the claims on its label/labeling and the "Eco AirDoctor Portable" website, [www.ecoairdoctor.com](http://www.ecoairdoctor.com), "Eco AirDoctor Portable" is a product intended for a pesticidal purpose and thus a "pesticide" pursuant to section 2(u) of FIFRA, 7 U.S.C. § 136(u), and 40 C.F.R. § 152.15.
30. The pesticide, "ECO AirDoctor Portable," is not registered with EPA under section 3 of FIFRA, 7 U.S.C. § 136a.
31. Based on the claims on its label/labeling, the "Eco AirDoctor Portable" website, [www.ecoairdoctor.com](http://www.ecoairdoctor.com), and ECOSHIELD's Facebook page, the pesticide, "Eco AirDoctor Portable" is "misbranded," pursuant to section 2(q)(1) of FIFRA, 7 U.S.C. § 136(q)(1), and 40 C.F.R. §§156.10(a)(5)(ii), (iv) and(ix).
32. ECOSHIELD has offered and is offering "ECO AirDoctor Portable" for sale through its website for "ECO AirDoctor Portable" at [www.ecoairdoctor.com](http://www.ecoairdoctor.com).

### Summary of Basis for the Order

33. In summary, based on the findings above, EPA has reason to believe that “ECO AirDoctor Portable” is a pesticide that is unregistered and misbranded and that Respondent has distributed or sold and intends to distribute or sell “ECO AirDoctor Portable,” in violation of sections 12(a)(1)(A) and (E) of FIFRA, 7 U.S.C. §§ 136j(a)(1)(A) and (E).

### III. ORDER

34. Pursuant to the authority in section 13(a) of FIFRA, 7 U.S.C. § 136k(a), EPA hereby orders Respondent to **immediately stop** the sale, use or removal of the “Eco AirDoctor Portable” products under its ownership, control, or custody, wherever such products are located, except in accordance with the provisions of this Order.
35. This Order shall extend to all quantities and sizes of the “Eco AirDoctor Portable” products intended for sale or distribution, including:
- A. Any “Eco AirDoctor Portable” products marketed under alternate brand names; and
  - B. Any “Eco AirDoctor Portable” products returned to Respondent from its distributors, customers, or other end-users.
36. The products described in Paragraph **35** shall not be used, sold, offered for sale, held for sale, shipped, delivered for shipment, received, or having so received, shall not be delivered, offered for delivery, moved or removed for disposal from any facility or establishment for any reason, unless approved by EPA in writing. Any proposal for movement of the products so described shall be submitted by email to Bonnie Rogers, Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region IX, at Rogers.Bonnie@epa.gov, and shall include:
- A. The purpose for which movement is being requested;
  - B. An accounting of the quantities of the product to be moved, including location(s), quantities from each location, and container size for the products to be moved; and
  - C. The destination location to where the product will be moved.
37. Within 10 days of receipt of this Order, Respondent shall submit to EPA an accounting of all products subject to this Order. The report shall be submitted by email to Bonnie Rogers, Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region IX, at Rogers.Bonnie@epa.gov, and shall include:
- A. A description of all existing product inventory, including the location(s) where the products are held, quantities, and container size. This information must be updated on

a weekly basis for four weeks, on a monthly basis for the following six months, and thereafter only upon further change to the information;

- B. A complete list of Respondent's distributors and direct-sale customers and records of all sales and distributions made to such entities since February 1, 2020; and
  - C. Provisions to maintain records of the distribution (e.g., reformulation, repackaging, relabeling, disposal) of products and to make the records available to EPA upon request. Such records must include information on the method, the quantity, and the location of the disposition and/or disposal.
  - D. You may, if you desire, assert a business confidentiality claim for all or part of the information submitted in accordance with 40 C.F.R. Part 2. The information qualifying as business confidential material will be disclosed by EPA only to the extent and by the procedures set forth in 40 C.F.R. Part 2 Subpart B. Unless you make a claim at the time you submit the information, it may be made available to the public by EPA without further notice to you. If you do assert a business confidentiality claim, you must follow the procedures set forth in the attached Exhibit A. All submittals that are claimed confidential business information shall be submitted with password protection, via email to Bonnie Rogers at [Rogers.Bonnie@epa.gov](mailto:Rogers.Bonnie@epa.gov).
38. Any agent, owner, or operator of ECOSHIELD violating the terms or provisions of this Order may subject the violator to civil or criminal penalties as prescribed in section 14 of FIFRA, 7 U.S.C. § 136l.
39. The issuance of this Order shall not constitute a waiver by EPA of its remedies, either judicial or administrative, under FIFRA or any other federal environmental law to address this matter or any other matters or unlawful acts not specified in this Order.
40. This Order shall be effective immediately upon receipt by ECOSHIELD, or any agents of ECOSHIELD.
41. This Order shall remain in effect unless and until revoked, terminated, suspended, or modified in writing by EPA.
42. If any provision or provisions of this Order is/are subsequently held to be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby and they shall remain in full force and effect.

## **V. OTHER MATTERS**

43. Respondent may seek federal judicial review of this Order pursuant to Section 16 of FIFRA, 7 U.S.C. § 136n.

44. For additional information about this Order, please contact Bonnie Rogers, Enforcement Case Officer, at 213-244-1808. For any legal issues concerning this Order, please contact Carol Bussey, Assistant Regional Counsel, at 415-972-3950.

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, COMPLAINANT**

DATE: \_\_\_\_\_

By:

\_\_\_\_\_  
Amy C. Miller-Bowen, Director  
Enforcement & Compliance Assurance Division  
U.S. Environmental Protection Agency, Region IX



## EXHIBIT A

If you wish to assert a claim of business confidentiality, you must clearly mark each page of each document included in your claim with a legend such as “trade secret”, “proprietary”, or “company confidential.” If you claim information submitted as confidential, you must also provide a redacted version of the information with all confidential business information deleted. For any information and documents in which you assert a claim of business confidentiality, please answer the following questions:

1. What specific portions of the information are alleged to be entitled to confidential treatment? Specify by page, paragraph, and sentence when identifying the information subject to your claim.
2. For what period of time do you request that the information be maintained as confidential (*e.g.*, until a certain date, until the occurrence of a specified event or permanently)? If the occurrence of a specific event will eliminate the need for confidentiality, specify that event. Additionally, explain why the information should be protected for the time period you have specified.
3. What measures have you taken to protect the information claimed as confidential from undesired disclosure? Have you disclosed the information to anyone other than a governmental body or someone who is bound by an agreement not to disclose the information further? If so, why should the information still be considered confidential?
4. Is the information contained in any publicly available material such as the Internet, publicly available databases, promotional publications, annual reports or articles? Is there any means by which a member of the public could obtain access to the information? Is the information of a kind that you would customarily not release to the public?
5. Has any governmental body made a determination as to the confidentiality of the information? If so, please attach a copy of the determination.
6. For each category of information claimed as confidential, explain with specificity whether disclosure of the information is likely to result in substantial harm to your competitive position. Explain the specific nature of those harmful effects, why they should be viewed as substantial, and the causal relationship between disclosure and such harmful effect. How could your competitors make use of this information to your detriment?
7. Is there any other explanation you deem relevant to the EPA’s determination of your business confidentiality claim that is not covered in the preceding requests? If so, you may provide such additional explanation.

You must furnish comments to the above requests concurrent with your response, if you have claimed any information as business confidential. See 40 C.F.R. § 2.204(e)(2). Pursuant to 40 C.F.R. § 2.205(b)(2), you may request an extension of this deadline. The EPA will construe your failure to furnish timely comments as a waiver of your confidentiality claim, consistent with 40 C.F.R. § 2.204(e)(1).

